

JMM/SK
F. #2013R00948

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

No. 13-CR-607 (JFB)

PHILLIP A. KENNER,
also known as
“Philip A. Kenner,” and
TOMMY C. CONSTANTINE,
also known as
“Tommy C. Hormovitis,”

Defendants.

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THE GOVERNMENT’S PROPOSED VOIR DIRE

The government respectfully requests that in addition to the Court’s regular voir dire questions, the Court include the questions below. Additionally, the government notes that at least two witnesses may testify pursuant to either non-prosecution agreements or grants of immunity. The government requests that the Court use its standard questions to prospective jurors about such agreements and testimony from such witnesses. Finally, the government encloses a list of names and places for use during voir dire.

1. Please describe the highest level of formal education that you have obtained. If you have a college degree, please identify in what field.

2. How are you presently employed? If you are not employed, are you: attending school? Retired? Unemployed?

3. In the past ten (10) years, have you or an immediate family member ever participated in any group that lobbies or takes public positions on social or legal issues (for example, the right to bear firearms/gun control, law enforcement, abortion rights, animal rights, economic inequality, etc.)?

a. If yes, please describe the type of group (without specifically naming it) and the length of your (or your immediate family member's) involvement in the group.

b. If yes, would that experience prevent you from evaluating the evidence presented in this case in a fair and impartial manner?

4. Have you, a family member, or close friend even been the victim of a crime? Alternatively, have you ever filed a complaint with the police or a prosecuting office such as a District Attorney's Office against anyone?

a. If yes, please describe.

b. If yes, were you satisfied with the way in which the police or law enforcement agency handled the complaint, or was there anything about that experience that might prevent you from evaluating the evidence presented in this case in a fair and impartial manner?

5. Have you ever been a juror in a civil or criminal case, or alternatively, have you ever been a member of a grand jury?

6. Is there anything about your prior jury service that: would affect your ability to be a fair and impartial juror in this case, or would make you not want to serve again; or affected your opinion of the jury system?

7. Have you, a family member, or a close friend ever been arrested, charged with a crime, the subject of a criminal investigation, or a victim of a crime? Is there anything about that experience that would impact your ability to be a fair and impartial juror in this case?

8. Do any of you know anything about the facts of this case, or have you heard or read anything about the facts of this case? If yes, have you formed an opinion about whether the defendants are guilty of the crimes with which they are charged? Have you formed a general opinion as to the defendants based upon anything you have seen, heard or read?

9. This case may receive attention in the media. Will you accept the proposition that the only evidence you should consider is the evidence received in this courtroom and that you are to avoid and ignore any statements made by the media, which may be inaccurate or incomplete?

10. For the duration of this trial, you must refrain from reading or watching media accounts of the trial, and you may not use the Internet or social media to inquire about, or attempt to supplement the testimony and evidence that may be admitted at trial. Will you adhere to such a rule as part of your oath as a juror?

12. Do you, a family member, or a close friend have any experience with investing? If so, what was the experience and was it a positive or negative experience?

13. Have you, a family member, or a close friend worked in the financial services industry? If so, where were you employed and what type of position did you hold?

14. One of the defendants in this case was a financial advisor. Do you have any feelings or views about financial advisors that would prevent you from being fair and impartial in this case?

15. Some of the witnesses in this case are currently, or were professional athletes. Do you have any feelings or views about professional athletes or wealthy individuals that would prevent you from being fair and impartial in this case?

16. There will be a number of banks and other financial institutions that will be mentioned during this trial. Have you, or a family member ever worked for any of the named institutions? Have you or a close family member ever been involved in any dispute or litigation with any of the financial institutions? Do you have any experiences, feelings, or views about such institutions that would prevent you from being fair and impartial in this case?

17. Some of the evidence in this case was obtained through the use of recording devices in which one party to the conversation consented to the use of the recording device but the other party to the conversation was not aware that he or she was

being recorded. This evidence was obtained legally. Do you have any feelings about the use of recording devices that would prevent you from being fair and impartial in this case?

Dated: Central Islip, New York
April 20, 2015

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

By: /s/
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cc: Clerk of the Court (JFB) (by ECF)
Richard D. Haley, Esq. (by ECF)
Robert P. LaRusso, Esq. (by ECF)